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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,335	07/03/2003	Walter A. Zohmann	10012.7	5090
21999	7590	10/12/2006	EXAMINER	
KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			THANH, LOAN H	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/613,335	ZOHMANN, WALTER A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LoAn H. Thanh	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/15/06</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

The claim objection has been withdrawn in view of applicant's amendment filed 06/08/06.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 06/15/06 was filed with the correct fee after the first office action on the merits. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner. The Examiner is only considering the drawing of the patent since no translation was submitted therewith.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zohmann (USPN 6,558,353) in view of Sorenson et al. (USPAP 2002/0123723).

Zohmann discloses the invention as substantially claimed. Zohmann discloses a needle apparatus for administering a peripheral nerve block comprising a hollow needle 50 having a fenestration/side port 54, a needle hub 40 and a stylet cap 20 coupled to a

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stylet 30 and slidable within the needle 50 and needle hub 40. Zohmann also discloses at least one fenestration indicator 48,48 for visual and tactual verification of the orientation of the fenestration. See figures 1-8, columns 5-8. However, Zohmann does not disclose a plurality of fenestrations. Sorenson et al. discloses a plurality of holes alternating along the length of the needle and longitudinally spaced on alternate sides of the wall with an obturator/stylet 55 to block passage of fluid while the needle is being inserted into the patient. The holes/fenestrations are provided for uniform and optimal dispersion of medication across a range of proximal absorption fields. It would have been obvious to one of ordinary skill in the medical injection art to modify the single fenestration of Zohmann with a plurality of fenestrations as taught by Sorenson et al. to provide a uniform volume and rate of dispersion of therapeutic fluids from the fluid flow path to the target area.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zohmann (USPN 6,558,353) in view of Yang (CN -2201946-Y).

Zohmann discloses the invention as substantially claimed. Zohmann discloses a needle apparatus for administering a peripheral nerve block comprising a hollow needle 50 having a fenestration/side port 54, a needle hub 40 and a stylet cap 20 coupled to a stylet 30 and slidable within the needle 50 and needle hub 40. Zohmann also discloses at least one fenestration indicator 48,48 for visual and tactual verification of the orientation of the fenestration. See figures 1-8, columns 5-8. Zohmann discloses a needle in combination with a stylet. However Zohmann shows one fenestration. Zohmann is silent to a plurality of fenestrations. See Yang figure 1. Yang shows a

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needle with 3 fenestrations. It would have been obvious to one of ordinary skill at the time the invention was made to modify the needle of Zohmann with a plurality of fenestrations as taught by Yang in order to provide a plurality of infusion ports in order to provide flow to a larger target area or in order to provide flow in case one of the fenestrations/ports is occluded.

### ***Response to Arguments***

Applicant's arguments filed 06/08/06 have been fully considered but they are not persuasive. Applicant's arguments are not convincing. However, the Eldor reference has been withdrawn in view of applicant's amendment.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

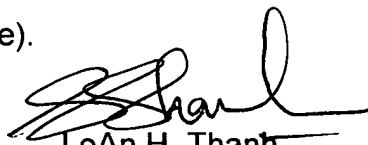
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (571) 272-4966. The examiner can normally be reached on Mon. - Fri. (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LoAn H. Thanh  
Primary Examiner  
Art Unit 3763

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